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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,326	03/03/2004	Paul Drew	200314587-1	4374

22879 7590 08/01/2008

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EXAMINER
LE, TAN

ART UNIT	PAPER NUMBER
3632	

NOTIFICATION DATE	DELIVERY MODE
08/01/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/792,326	DREW ET AL.	
	Examiner	Art Unit	
	Tan Le	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 17-25* is/are pending in the application.

4a) Of the above claim(s) *21-24* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13,17-20 and 25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 March 2008* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This office action is corresponding to Applicant's submission of amendment filed 3/18/08. Claims 1-20 and 25 are pending. Claims 14-16 have been canceled. Claims 21-24 were withdrawn.

Amendment to drawings filed 3/18/08 is acknowledged but it has not been approved by examiner in view of the reason stated below:

Note that Applicant's submission filed 3/18/08 is considered to be an informal submission (difficult to read) and still fails to comply with the requirements of 37 CFR 1.121 (a). More specifically, the submission fails to comply with 37 CFR 1.52 (a) (1)(ii) and 37 CFR 1.52 (a)(5). Applicant is urged to comply with the requirements set forth under 37 CFR 1.121 (a) in response to this office action. The examiner could have sent a notice of non-compliant due to the failing to comply with the requirements of 37 CFR 1.121(a) as stated above. However, it appears that Applicant is not familiar with the requirements set forth in MPEP in submission of an amendment (see MPEP 714). In the interest of facilitating the prosecution, the examiner will waive the notice of noncompliant at this time. It should be noted that while formal correction may be deferred the submittance of proposed corrections are not. Specifically, Applicant is once again required to submit proposed drawings corrections for the examiner's approval.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7, 8-13, 17-20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,874,738 to Ishizaki et al.

As to claim 1, Ishizaki et al. discloses an adjustable elevating a display comprising: a first assembly (spiral spring) (2) (Figs. 1-2) configured to produce a fixed lifting force; a second assembly (53) configured to produce a user configurable friction force; a monitor support assembly (3, 4) operably connected to the first assembly (2) and the second assembly (53), the monitor support assembly configured to support a monitor and to have the fixed lifting force and the user configurable friction force counteract a vertical downward force produced by the monitor, and a monitor support assembly guide (1) configured to direct and constrain a vertical motion of the monitor support assembly.

Ishizaki et al discloses second assembly, which comprises a manually control clamping bolt 53 inserted into a holes 52C along with other pieces 51 (nut) and a stopper 52) so as to prevent the elevating member 3 from being felt down toward the base member 1 and to regulate the horizontal movement of the elevating member 3. Ishizaki et al. however, does not expressly disclose a servo (an automated, see para [0032, specification) that operably connected to the second assembly for moving the second assembly to produce the configurable friction force. However, to have an automate control to produce the configurable friction force such as a servo that converts

a small mechanical motion into requiring much greater power and function as brakes is considered well known and within the level skill in the art. It would have been obvious matter of design choice to provide a controllable friction control manually such as a knob or an automated control such as a servo operably connected to the second assembly for moving the second assembly to produce the configurable friction force since Applicant has not disclosed that the automated control provides an advantage or solves a state problem or provided any criticality to replace the manually applied friction force. One of ordinary skill in the art, further more would have expected Applicant's invention to perform equally well with the manually control because they both appear to perform equally well the same function and do not product any unexpected results. Therefore, it would have been an obvious matter of design choice to modify Ishizaki et al. to obtain the invention as specified in claims 1, 8 and 17. In addition, it has been well settle and held that broadly providing a mechanical or automatic means to control or replace manual activity, which has accomplished the same result, involves only routine skill in the art. In reVenner, 120 USPQ 192.

As to claim 2, wherein the first assembly includes a spring (spiral spring 2).

As to claims 3-4, Ishizaki et al. differs from claims 3 and 4 of the present invention in whether the monitor support assembly can be moved vertically by applying a force with a vertical component of less than ten Newtons to one or more of (claim 3), and/or of less than one Newton to one or more of, the monitor support assembly, and the monitor. Ishizaki et al does not disclose expressly such force. However, to have select/apply such forces in order to move the monitor support assembly vertically is

deemed obvious over Ishizaki et al. because it was obvious that the device of Ishizaki can be lifted the monitor support assembly vertically by applying a certain force; and more specifically the device can be adjusted by loosening or tightening the nut 53 or changing the size of the coil 2 to a certain force in order to lift or counterbalance a certain weight of the monitor. Hence it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a force with a vertical component of less than ten Newtons to one or more of or of less than one Newton to one or more of in order to move the monitor support assembly vertically. Absent of any teaching or criticality or providing an advantage or solving a state problem is also consider as an obvious matter of design choice. Therefore it would have also been an obvious matter of design choice to modify Ishizaki et al to obtain the invention as specified in claims 3 and 4.

As to claim 5, Ishizaki et al as modified also read on claim 5, wherein the second assembly (53) includes one or more of, a moveable lever (53A) connected for movement by the servo and configured to bear on one or more of, the monitor support assembly and the monitor support assembly guide to produce the friction force, and a turnable screw (53B) in combination with 51, 52, 54) connected to be turned by the servo and configured to bear on one or more of, the monitor support assembly, and the monitor support assembly guide to produce the friction force.

As to claim 6, wherein the second assembly includes one or more of, a moveable friction plate (51, 52, 54) connected for movement by the servo and configured to bear on one or more of, the monitor support assembly and the monitor support assembly

guide to produce the user configurable friction force and an .arm (52) configured to bear on one or more of, the monitor support assembly, and the monitor support assembly guide to produce the user configurable friction force.

As to claim 7, the recitation of claim 7 only further recites the intended use of the claimed invention, therefore this has not been given patentable weight. Nevertheless, Ishizaki et al. teaches as such which includes a flat panel computer monitor (D) (Fig. 4).

As to claim 25, Ishizaki also discloses a stand including a base (11) (Fig. 1).

As to claims 8-13 and 17-20, these claims recited limitations somewhat similar to those recited in claims 1-7 respectively, are therefore also rejected under 103 as being unpatentable over Ishizaki et al., where a base reads on element (11), means (spring 2) for providing a fixed lifting force, and a guide reads on element (1) supported by the base.

Response to Arguments

Applicant's arguments filed 3/18/08 with respect to Ishizaki et al. have been fully considered but they are not persuasive.

In general, Applicant's arguments that (a) the reference (Ishizaki et al.) does not teach a servo for automatically applying a configurable frictional force in a monitor stand height adjustment mechanism. Thus none of the claims are obvious. (b) The office action has been determined obviousness through hindsight reconstruction, using the application as a blue print… (c) the office action is flawed because it relies solely on the

case law to support it rejection etc...", these arguments are not deemed to be persuasive.

First, as stated in the rejection: "Ishizaki et al discloses second assembly, which comprises a manually control clamping bolt 53 inserted into a holes 52C along with other pieces 51 (nut) and a stopper 52) for manually control friction so as to prevent the elevating member 3 from being felt down toward the base member 1 and to regulate the horizontal movement of the elevating member 3. Ishizaki et al. however, does not expressly disclose a servo (an automated control friction, (see para [0032, specification) that operably connected to the second assembly for moving the second assembly to produce the configurable friction force. However, to have an automate control to produce the configurable friction force such as a servo that converts a small mechanical motion into requiring much greater power and function as brakes is well known and within the level skill in the art. It would have been obvious matter of design choice to provide a controllable friction control, an automated control such as a servo operably connected to the second assembly for moving the second assembly to produce the configurable friction force since Applicant has not disclosed that the automated control provides an advantage or solves a state problem or provided any criticality to replace the manually applied friction force. One of ordinary skill in the art, further more would have expected Applicant's invention to perform equally well with the manually control because they both appear to perform equally well with the same function and do not product any unexpected results. Therefore, it would have been an obvious matter of design choice to modify Ishizaki et al. to obtain the invention as specified in claims 1, 8

and 17. In addition, it has been well long established and held that broadly providing a mechanical or automatic means to control or replace manual activity, which has accomplished the same result involves only routine skill in the art. In reVenner, 120 USPQ 192". As such, the examiner has clearly established a reason as to why it's would have been an obvious matter of choice of design at the time the invention was made to include a servo, an automated control feature for controlling the friction force in place of manually control in view of the teaching of Ishizuki et al. In addition, the examiner has also shown a reason that because both manually and automatically controls perform the same function of controlling the friction, and Applicant's specification does not provide any criticality that why is the need to replace an automated control in place of manually control. Clearly, the examiner has further advanced the reasons for making the required modifications and applicant has not adequately addressed these reasoning/rationales.

Secondly, the examiner has also further provided reasons that patentability cannot be predicated upon a design feature that is within the level of skill of an ordinary worker in the art and also provided case law to show that it has been long established and held that broadly providing a mechanical or automatic means to control or replace manual activity, which has accomplished the same result involves only routine skill in the art. In reVenner, 120 USPQ 192". But applicant has not adequately addressed these reasoning/rationales. Since the applicant has failed to address the reasoning/rationales supplied by the examiner as to why the modification would not have been obvious, the applicant's arguments are therefore not persuasive. Absent a

factual showing of new or unexpected results obtained by using automated control rather than manually control, thus applicant has also failed to bear the burden of establishing patentability.

In conclusion, it would have been no more than an obvious matter of design choice to modify the teaching of prior art to the invention, which render the subject matter obvious within the meaning of 35 U.S.C. 103. Accordingly, this action is made FINAL

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tan Le/
Examiner, Art Unit 3632

/J. ALLEN SHRIVER II/
Supervisory Patent Examiner, Art Unit 3632

Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/792,326	DREW ET AL.	
	Examiner	Art Unit	
	Tan Le	3632	